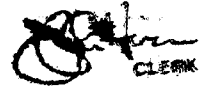


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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION


CLERK

SOUTH DAKOTA FARM BUREAU, INC.,)
SOUTH DAKOTA SHEEP GROWERS)
ASSOCIATION, INC.; HAVERHALS)
FEEDLOT, INC.; SJOVALL)
FEEDYARD, INC.; FRANK D.)
BROST; DONALD TESCH; WILLIAM)
A. AESCHLIMANN; SPEAR H.)
RANCH, INC.; MARSTON HOLBEN,)
MONTANA-DAKOTA UTILITIES CO.;)
NORTHWESTERN PUBLIC SERVICE;)
AND OTTER TAIL POWER COMPANY,)

PLAINTIFFS,)

-VS-)

MARK W. BARNETT, IN HIS)
OFFICIAL CAPACITY AS ATTORNEY)
GENERAL OF SOUTH DAKOTA, AND)
JOYCE HAZELTINE, IN HER)
OFFICIAL CAPACITY AS SECRETARY)
OF STATE OF SOUTH DAKOTA,)

DEFENDANTS,)

and)

DAKOTA RURAL ACTION; AND)
SOUTH DAKOTA RESOURCES)
COALITION,)

Intervenors/Defendants.)

CIV. 99-3018-CBK

**JOINDER OF BIG STONE
PARTNERS IN PLAINTIFFS'
BRIEF OPPOSING DEFENDANT-
STATE'S MOTION FOR PARTIAL
SUMMARY JUDGMENT REGARDING
EQUAL PROTECTION**

Plaintiffs Montana-Dakota Utilities Company, Northwestern Public Service Company and Otter Tail Power Company ("the Big Stone Partners") join in plaintiffs' opposition to defendant-State's motion for partial summary judgment regarding equal protection herein dated November 6, 2000, filed by counsel for South Dakota Farm Bureau, South Dakota Sheep Growers Association, Haverhals

Feedlot, Inc., Sjovalld Feedyard, Inc., Frank D. Brost, Donald D. Tesch, and William A. Aeschlimann.

It is unclear from the brief of the State defendants whether they also seek to dismiss Count III dealing with equal protection as it relates to the Big Stone Partners. To the extent that the State's motion is directed toward the Big Stone Partners' position, they join in the aforesaid brief and oppose the State defendants' motion.

The discussion of Romer vs. Evans, 517 US 620 (1996) applies equally to the Big Stone Partners. As discussed in their brief on the standing issue, the Big Stone Partners are the victim of unintended consequences and the discussion of Romer as it relates to the breadth of the amendment applies equally to the Big Stone Partners.

WHEREFORE the Big Stone Partners pray that the Court permit this joinder in the above-mentioned brief and allow the opposition of the Big Stone Partners to the State's motion for partial summary judgment on Count III dealing with equal protection claims.

Dated this 9th day of November, 2000.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

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CERTIFICATE OF SERVICE

David A. Gerdes, of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 9th day of November, 2000, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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